

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

XR COMMUNICATIONS, LLC, dba,
VIVATO TECHNOLOGIES,

Plaintiff,

v.

DELL TECHNOLOGIES INC. and
DELL INC.,

Defendants.

Case No. 6:21-cv-00646-ADA

**VIVATO’S RESPONSE TO DELL’S MOTION TO STAY
PENDING RESOLUTION OF ITS TRANSFER MOTION**

Plaintff XR Communications d/b/a Vivato Technologies briefly responds in opposition to Dell’s motion to stay pending resolution of its intra-district motion to transfer venue to the Austin Division (Dkt. 52). The sole basis for Dell’s motion to stay is to allow the Court to decide its pending motion to transfer (Dkt. 33) before the *Markman* hearing. But after the filing of Dell’s motion to stay, the Court rescheduled the *Markman* hearing from August 5 to August 26, 2022. Dkt. 53. Thus, the relief requested in the motion to stay has been granted and the motion is moot.

In the event the Court is unable to resolve the transfer motion in advance of the *Markman* hearing, the Court can simply postpone the *Markman* hearing again. There is no need to impose a formal stay of the entire proceeding. This would only create additional delay and more work for the parties and the Court. Indeed, the Court’s latest OGP expressly provides that “If a motion to transfer remains pending, the Court will either promptly resolve the pending motion before the *Markman* hearing, or postpone the *Markman* hearing,” confirming that a stay is unnecessary.

Dell’s motion should be denied.

Dated: August 11, 2022

Respectfully submitted,
/s/ Reza Mirzaie

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CERTIFICATE OF SERVICE

I hereby certify that the counsel of record who are deemed to have consented to electronic service are being served on August 11, 2022 with a copy of this document via the Court's ECF system.

/s/ Reza Mirzaie

Reza Mirzaie